

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DANIEL HARPER,

Plaintiff,

v.

CDCR, et al.,

Defendants.

No. 2:21-cv-00130-KJM-JDP (PC)

ORDER

Plaintiff, a state prisoner proceeding pro se, has filed this civil rights action seeking relief under 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge as provided by 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 5, 2021, the magistrate judge filed findings and recommendations, which were served on plaintiff and which contained notice to plaintiff that any objections to the findings and recommendations were to be filed within fourteen days. Plaintiff has not filed objections to the findings and recommendations.

The court presumes that any findings of fact are correct. *See Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The magistrate judge's conclusions of law are reviewed de novo. *See Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007) (“[D]eterminations of law by the magistrate judge are reviewed de novo by both the district court and [the appellate] court

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1 . . .”). Having reviewed the file, the court finds the findings and recommendations to be  
2 supported by the record and by the proper analysis.

3 The court notes the purpose of the Prison Litigation Reform Act (PLRA) is to curtail  
4 frivolous prisoner civil-rights suits. *Washington v. Los Angeles Cty. Sheriff's Dep't*, 833 F.3d  
5 1048, 1057 (9th Cir. 2016). After a prisoner has accumulated three “strikes” for prior federal  
6 court litigation while incarcerated or in detention, the PLRA bars prisoners from proceeding in  
7 forma pauperis (IFP). *Id.* at 1054. Because plaintiff did not adequately plead “imminent danger  
8 of serious physical injury” within the meaning of 28 U.S.C. § 1915(g), the magistrate judge  
9 ordered plaintiff to show cause within twenty-one days, *see* ECF No. 7, why in spite of his “three-  
10 striker” status, he should be allowed to proceed in forma pauperis. *See generally* Mot. IFP, ECF  
11 No. 2. Plaintiff did not respond to the order, as the magistrate judge notes.

12 Accordingly, IT IS HEREBY ORDERED that:

- 13 1. The findings and recommendations filed May 5, 2021, are adopted in full;
- 14 2. Plaintiff’s application to proceed in forma pauperis (ECF No. 2) is denied for the  
15 reasons set forth in the March 4, 2021 order (ECF No. 7);
- 16 3. Plaintiff shall pay the \$402 filing fee within twenty-one days of the date of this order;  
17 and
- 18 4. Failure to pay the \$402 filing fee within twenty-one days of this order will result in this  
19 action being dismissed without prejudice.

20 DATED: September 27, 2021.

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23 CHIEF UNITED STATES DISTRICT JUDGE  
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